

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1518

**Introduced by Committee on Banking and Finance (Lieu (Chair),
Gaines (Vice Chair), Coto, Mendoza, Parra, Swanson, Torrico,
Walters, and Wolk)**

February 23, 2007

An act to amend ~~Section~~ Sections 14254.5, 14257, 14353.5, 14405, 14408, 14453, 14456, 14750, 14807, 14950, and 15100 of the Financial Code, relating to credit unions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1518, as amended, Committee on Banking and Finance. Credit unions.

Existing law provides for the regulation of credit unions by the Commissioner of Financial Institutions. Existing law prohibits a credit union incorporated in this state from establishing a branch office in another state without the approval of the governmental authority with jurisdiction to license or charter credit unions in that state. Existing law provides that investigation and examination of reports prepared by the commissioner's duly designated representatives are not public records but authorizes those records to be disclosed to certain personnel of the credit union. Existing law requires the commissioner to annually levy a specified assessment on credit unions and authorizes the commissioner to charge a fee of \$75 whenever the commissioner makes an extra examination of a credit union. Existing law authorizes a credit union to make certain types of investments and to become a member of specified organizations. Existing law prohibits a credit union from making any gift or donation in excess of \$1,000 unless the gift or

donation is in the best interest of the credit union and specified conditions are satisfied. Existing law authorizes the board of directors of a credit union, with written approval of the commissioner, to appoint an executive committee for specified purposes and to delegate the power to approve applications for new membership to certain individuals if the board reviews those approved membership applications quarterly. Existing law makes it a misdemeanor for specified officers, directors, committee members, certain loan officers, or employees of a credit union to knowingly permit or participate in the creation of an obligation with a nonmember of the credit union. Existing law authorizes a credit union to issue shares and enter into certain obligations with members of the credit union.

This bill would authorize a credit union to establish a branch on an Indian reservation located within the borders of California. The bill would authorize the investigation and examination reports prepared by the commissioner's duly designated representatives to be disclosed to internal and external auditors and attorneys of the credit union. The bill would authorize the commissioner to charge a reasonable fee, instead of a \$75 fee, whenever the commissioner makes an extra examination of a credit union. The bill would authorize a credit union to become a member of an organization composed of community economic development entities and business or trade organizations. The bill would change the \$1,000 limit on credit union gifts or donations to an unspecified amount and would authorize the board of directors of a credit union to establish a budget for gifts and donations. The bill would authorize the board of directors of a credit union to appoint an executive committee to act as expressly approved by the board, as specified and to delegate the power to approve applications for new membership to specified individuals as long as the board reviews a report of membership applications at least quarterly. The bill would provide that a member who is withdrawing membership in a credit union may be required to give specified notice of intention to withdraw shares. The bill would authorize a credit union to issue shares and enter into obligations with nonmembers if they are a joint applicant or coobligor with a member of the credit union.

~~Existing law, the California Credit Union Law, provides for the regulation of credit unions by the Commissioner of Financial Institutions. Existing law authorizes the board of directors of a credit union to delegate the power to approve applications for new membership~~

to specified individuals, provided the board of directors reviews those approved membership applications at least quarterly.

~~This bill would require the board of directors to review, at least quarterly, a report of those approved membership applications if the board delegates the power to approve membership applications.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 14254.5 of the Financial Code is amended*
2 *to read:*

3 14254.5. (a) Except as provided in subdivisions (b) and (c),
4 within 10 business days of opening, closing, or relocating a branch
5 office, a credit union shall notify the commissioner in writing of
6 the action, including the street and mailing addresses of the branch
7 office.

8 (b) A credit union shall not establish a branch office in another
9 state of the United States without the approval of the governmental
10 authority with jurisdiction to license or charter credit unions in
11 that state. "State" has the meaning set forth in Section 146.7.

12 (c) A credit union shall not establish a branch office in a foreign
13 nation without the prior written approval of the commissioner.
14 "Foreign nation" has the meaning set forth in Section 139.3.

15 (d) *Notwithstanding any other provision of law, a credit union*
16 *may establish a branch on an Indian reservation located within*
17 *the borders of California.*

18 *SEC. 2. Section 14257 of the Financial Code is amended to*
19 *read:*

20 14257. Investigation and examination reports prepared by the
21 commissioner's duly designated representatives shall not be public
22 records. The reports may be disclosed to the officers, directors,
23 members of the supervisors committee, members of the credit
24 committee, *internal and external auditors, attorneys,* and key
25 management personnel of a credit union which is the subject of a
26 report for the purpose of corrective action by those persons. The
27 disclosure shall not operate as a waiver of the exemption specified
28 in subdivision (d) of Section 6254 of the Government Code.

29 *SEC. 3. Section 14353.5 of the Financial Code is amended to*
30 *read:*

1 14353.5. Whenever the commissioner finds it necessary or
2 advisable to make an extra examination of a credit union, the
3 commissioner may charge the credit union a fee of ~~seventy-five~~
4 ~~dollars (\$75) per hour~~ *reasonable fee determined by the*
5 *commissioner, not to exceed actual costs, and published annually*
6 for each examiner engaged in the extra examination, and the credit
7 union shall, within 10 days after the mailing or other delivery of
8 a statement by the commissioner, pay the fee charged by the
9 commissioner.

10 *SEC. 4. Section 14405 of the Financial Code is amended to*
11 *read:*

12 14405. Every credit union may:

13 (a) (1) Become a member of any organization or organizations
14 composed of credit unions, credit associations, chambers of
15 commerce, ~~or~~ financial institutions, *community economic*
16 *development entities, or business or trade organizations.*

17 (2) Become a member of any nonprofit organization approved
18 by the board of directors.

19 (b) Pay dues and assessments as may be levied upon it by any
20 organization of which it is a member.

21 *SEC. 5. Section 14408 of the Financial Code is amended to*
22 *read:*

23 14408. No credit union shall make any gift or donation having
24 a value in excess of ~~one thousand~~ _____ dollars ~~(\$1,000)~~ (\$____)
25 unless the gift or donation is in the best interest of the credit union,
26 is approved by a resolution of the board of directors and is in
27 conformance with any regulation or order that the commissioner
28 may issue. The resolution of the board of directors approving the
29 gift or donation shall identify the recipient of the gift or donation,
30 state the value of the gift or donation, and specify the basis for the
31 board's determination that the gift or donation is in the best
32 interests of the credit union. *The board may establish a budget for*
33 *gifts and donations and authorize appropriate officials of the credit*
34 *union to select recipients and disburse budgeted funds among*
35 *those recipients.*

36 *SEC. 6. Section 14453 of the Financial Code is amended to*
37 *read:*

38 14453. The board of directors of every credit union shall have
39 the general management of the affairs, funds and records of the
40 credit union. The board, ~~with the written approval of the~~

1 commissioner, may appoint an executive committee of no fewer
2 than three directors, to serve at its pleasure, to act for it in the
3 ~~purchase and sale of securities, the investment and withdrawal of~~
4 ~~funds, in borrowing funds, and in making loans to other credit~~
5 ~~unions as expressly approved by the board of directors in~~
6 accordance with the law and regulations.

7 SECTION 1.

8 SEC. 7. Section 14456 of the Financial Code is amended to
9 read:

10 14456. Unless the bylaws expressly reserve any or all of the
11 following duties to the members, the directors have all of the
12 following special duties:

13 (a) To act upon all applications for membership. The directors
14 may delegate the power to approve applications for new
15 membership to: (1) the chairperson of a membership committee
16 or to an executive committee; or (2) any officer, director,
17 committee member, or employee, pursuant to a written membership
18 plan adopted by the board of directors, provided the board of
19 directors reviews at least quarterly a report of membership
20 applications approved by an officer, director, committee member,
21 or employee.

22 (b) To expel members for any of the following causes:

23 (1) Conviction of a criminal offense involving moral turpitude.

24 (2) Failure to carry out contracts, agreements or obligations
25 with the credit union.

26 (3) Refusal to comply with the provisions of this division or of
27 the bylaws.

28 Any members who are expelled by the board of directors have
29 the right to appeal therefrom to the members, in which event, after
30 hearing, the order of suspension may be revoked by a two-thirds
31 vote of the members present at a special meeting to consider the
32 matter.

33 (c) To determine from time to time the interest rate on
34 obligations with members and to authorize the payment of interest
35 refunds to borrowing members.

36 (d) To fix the maximum number of shares which may be held
37 by, and, in accordance with Section 15100, establish the maximum
38 amount of obligations which may be entered into with, any one
39 member.

(e) To declare dividends on shares in accordance with the credit union's written capital structure policy and to determine the interest rate or rates which will be paid on certificates for funds.

(f) To amend the bylaws, except where membership approval is required.

(g) To fill vacancies in the credit committee, and to temporarily fill vacancies caused by the suspension of any or all members of the credit committee, pending a meeting of the members to determine whether to affirm the suspension and vacate the office, or to reinstate the member or members.

(h) To direct the deposit or investment of funds, except loans to members.

(i) To designate alternate members of the credit committee who shall serve in the absence or inability of the regular members to perform their duties.

(j) To perform or authorize any action not inconsistent with law or regulation and not specifically reserved by the bylaws for the members, and to perform any other duties as the bylaws may prescribe.

SEC. 8. Section 14750 of the Financial Code is amended to read:

14750. ~~Any~~ Except as provided in Section 14950, any officer, director, member of a committee of a credit union, loan officer appointed pursuant to Section 14602, or employee who knowingly permits the creation of an obligation with, or participates in the creation of an obligation with, a nonmember of the credit union, or knowingly permits the creation of an obligation or participates in the creation of an obligation which is not made in conformity with the requirements of this division, is guilty of a misdemeanor.

SEC. 9. Section 14807 of the Financial Code is amended to read:

14807. Any member may withdraw from membership in the credit union at any time. A withdrawing member ~~shall~~ may be required to give 60 days' notice of intention to withdraw shares and 30 days' notice of intention to withdraw certificates for funds ~~unless except when~~ a different period of notice is required by the commissioner for the withdrawal of shares or share certificates that may be established by the board of directors pursuant to Section 14862.

1 *SEC. 10. Section 14950 of the Financial Code is amended to*
2 *read:*

3 14950. (a) Every credit union may enter into obligations with
4 its members upon the approval of the credit committee or, in the
5 alternative, the credit manager, subject to the terms and conditions
6 established by the board of directors pursuant to Section 15100.

7 (b) (1) The board of directors of a credit union shall adopt a
8 policy governing the acceptance by the credit union of notes
9 receivable from nonmembers as consideration for the sale of assets
10 owned by the credit union through bona fide transactions.

11 (2) No credit union may accept notes receivable from
12 nonmembers as consideration for the sale of assets owned by the
13 credit union except in accordance with a policy adopted by the
14 board of directors pursuant to paragraph (1).

15 (3) Transactions subject to this subdivision shall not be deemed
16 to be loans to nonmembers for purposes of Section 14750.

17 (c) *Notwithstanding subdivision (a), a credit union may permit*
18 *a nonmember to participate in an obligation or extension of credit*
19 *to a member as a joint applicant or coobligor. An obligation or*
20 *extension of credit made pursuant to this subdivision shall not be*
21 *deemed a violation of subdivision (b) of Section 14800. Except as*
22 *otherwise permitted by statute or regulation, the credit union shall*
23 *not extend any other benefit or service of the credit union to the*
24 *nonmember solely as a result of participation as a joint applicant*
25 *or coobligor unless the nonmember is thereafter admitted to*
26 *membership.*

27 *SEC. 11. Section 15100 of the Financial Code is amended to*
28 *read:*

29 15100. (a) The board of directors shall establish written
30 policies which shall set forth the policies of the credit union with
31 respect to any obligation that is offered to the members of the
32 credit union. The written policies shall set forth the maximum
33 amounts and terms for any obligation offered to the members,
34 including, but not limited to, the following information:

35 (1) For loans, the written policies shall set out the terms for
36 unsecured loans, the maximum amount and terms for secured
37 loans, the schedule of interest rates established pursuant to Section
38 15000 for each type or class of unsecured and secured loan offered
39 to members, the maximum maturity for any loan, or, in the case
40 of an open-end loan, the rate of repayment for any type or class

1 of open-end loan, the limitations, if any, which shall be placed on
2 the authority of any loan officer appointed pursuant to Sections
3 14602 and 14603, and, subject to the provisions of subdivisions
4 (b) and (c), the individual limits on obligations that are applicable
5 to all members of the credit union. Any policy developed pursuant
6 to this section by the board of directors shall, insofar as possible,
7 and, subject to individual creditworthiness, ensure equal access to
8 funds available for obligations with credit union members.

9 (2) For obligations other than those set out in paragraph (1), the
10 board of directors shall set out the interest rates and essential terms
11 of the obligations offered to the members and any other information
12 as may be required pursuant to regulations that may be adopted
13 by the commissioner.

14 (b) Notwithstanding subdivision (a), no credit union policy shall
15 permit a credit union to enter into obligations with an individual
16 credit union member whereby the total obligations of that member,
17 exclusive of amounts secured by shares or certificates for funds,
18 exceed 10 percent of the aggregate dollar amount of the credit
19 union's savings capital.

20 (c) Notwithstanding subdivision (b), no credit union policy shall
21 permit a credit union to enter into obligations with any one family
22 whereby the total obligations of the family would be greater than
23 the amount permitted by subdivision (b). For purposes of this
24 article, "family" means the marital couple or any head of household
25 together with those dependents residing with the marital couple
26 or the head of household and those dependents attending school
27 away from the principal residence of the marital couple or head
28 of household.

29 (d) Notwithstanding subdivisions (a), (b) and (c), any obligation
30 with a member ~~which~~ *that* is not a natural person shall not result
31 in liability to the credit union in excess of that member's
32 investment in the credit union unless an exception is authorized
33 in the credit union's bylaws ~~and approved by the commissioner~~.
34 Any lending activity permitted pursuant to this subdivision may
35 be terminated by an order issued by the commissioner pursuant to
36 Sections 14200 and 14204.